

31A-23a-302. Agency designations.

(1) An agency shall designate an individual that has an individual producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license to act on the agency's behalf in order for the licensee to do business for the agency in this state.

(2) An agency shall report to the commissioner, at intervals and in the form the commissioner establishes by rule:

- (a) a new designation; and
- (b) a terminated designation.

(3) (a) An agency licensed under this chapter shall report to the commissioner the cause of termination of a designation if:

(i) the reason for termination is a reason described in Subsection 31A-23a-111(5)(b); or

(ii) the agency has knowledge that the individual licensee is found to have engaged in an activity described in Subsection 31A-23a-111(5)(b) by:

- (A) a court;
- (B) a government body; or

(C) a self-regulatory organization, which the commissioner may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The information provided the commissioner under Subsection (3)(a) is a private record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An agency is immune from civil action, civil penalty, or damages if the agency complies in good faith with this Subsection (3) in reporting to the commissioner the cause of termination of a designation.

(d) Notwithstanding any other provision in this section, an agency is not immune from an action or resulting penalty imposed on the reporting agency as a result of proceedings brought by or on behalf of the department if the action is based on evidence other than the report submitted in compliance with this Subsection (3).

(4) An agency licensed under this chapter may act in a capacity for which it is licensed only through an individual who is licensed under this chapter to act in the same capacity.

(5) An agency licensed under this chapter shall designate and report to the commissioner in accordance with any rule made by the commissioner the name of the designated responsible licensed individual who has authority to act on behalf of the agency in the matters pertaining to compliance with this title and orders of the commissioner.

(6) If an agency designates a licensee in reports submitted under Subsection (2) or (5), there is a rebuttable presumption that the designated licensee acts on behalf of the agency.

(7) (a) When a license is held by an agency, both the agency itself and any individual designated under the agency license shall be considered to be the holder of the agency license for purposes of this section.

(b) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the agency license, the commissioner may suspend, revoke, or limit the license of:

- (i) the individual;
- (ii) the agency, if the agency:
 - (A) is reckless or negligent in its supervision of the individual; or
 - (B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or
- (iii) (A) the individual; and
- (B) the agency if the agency meets the requirements of Subsection (7)(b)(ii).

Amended by Chapter 253, 2012 General Session